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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,074	06/22/2005	Steven John Cowey	2736-1-002	2605

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EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/540,074

Applicant(s)

COWEY, STEVEN JOHN

Examiner

Devon C. Kramer

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 10, 12, 16, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 7 9 11 13 18 20-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All. b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 06/07 and 06/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

- 1) Claims 2, 4-5, 7-13, 16-17 and 20 are objected to because of the following informalities:

Claim 2 recites "the underside" which should be --an underside--;

Claims 4 and 17 lines 1-2, "the top and bottom faces" should be --top and bottom faces--;

Claim 4 line 3, "the lower end" should be --a lower end--;

Claim 5 line 3, "the front face" should be --a front face--;

Claim 10 line 3, "the bottom corners" should be --bottom corners--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

- 2) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 3) Claims 4 and 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said abutment" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the mounting plate" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 1-6, 12 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waddell et al (2879985) in view of Culp (3608882).

In re claims 1, 5-6, 12 and 17, Waddell provides a fender assembly adapted for attachment to a fixed support surface of a dock (figure 1) structure at a predetermined height above the ground, said fender assembly comprising: a vertical guide track (14) which, in use, is fixed with respect to the support surface, a disposed elongate fender guided for slidable movement along said guide track, spring loaded fender restraining means (20) co-acting with and adapted to resist movement of the fender when displaced downwards from a normal at rest position by an externally applied force, said fender restraining means being movable between a retracted position wherein the fender is supported in its said normal at rest position and an extended position wherein the fender is displaced downwards from said at rest position. Waddell teaches a fender member disposed vertically across the loading dock and lacks the teaching of disposing it vertically.

Culp teaches a vertically disposed bumper assembly.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have mounted the fender assembly of Waddell vertically as taught by Culp merely to be able to provide shock absorbing features for vehicles with a broad range of heights.

In re claim 2, see element 21 of Waddell.

In re claims 3-4 and 16, note that Waddell teaches that the block can be made of rubber (col. 2 line 5) and the bore can be considered a slotted keyway.

6) Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waddell et al (2879985) in view of Culp (3608882) and further in view of Patois (D381176).

In re claims 8 and 19, Waddell et al as modified by Culp lacks the teaching of a T-shaped keyway.

Patois teaches a T-shaped keyway.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have mounted the fender of Waddell et al as modified by Culp with a T-shaped Keyway as taught by Patois merely to provide a simple means to replace the fender when needed.

***Allowable Subject Matter***

7) Claims 7, 9-11, 13, 18, 20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and further amended to correct any claim objections recited above.

***Conclusion***

8) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reast; Kitao, Horsch, Drewett, Chase, Pemper et al, Leone et al, Brumby and Pollock all teach fender assemblies.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C. Kramer whose telephone number is 571-272-7118. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on (571 )272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Devon C Kramer  
Primary Examiner  
Art Unit 3683

DK

*Devon C Kramer*  
*6/25/07*